

RE CHENG SENG FATT

[R.Cr.J. (Gill J.) May 27, 1964]

[K.L. — Criminal Revision No. 10 of 1964]

Criminal Procedure — Sentence in case of conviction for several offences at one trial — Courts Ordinance, 1948, s. 102.

The effect of section 102 of the Courts Ordinance, 1948, is that where a person upon conviction at one trial of two or more distinct offences is sentenced to a term of imprisonment for each offence, the court has discretion to order the sentences to run concurrently or consecutively. But if the sentence for any one offence is a fine, then the sentence in default of payment of such fine must be consecutive to any other term or terms of imprisonment.

CRIMINAL REVISION.

Salleh Abbas (Deputy Public Prosecutor)
for the Public Prosecutor.

Accused in person.

Gill J.: This case has been brought up for purposes of revision at the instance of the Public Prosecutor. The accused was charged in the Magistrate's Court, Kuala Lumpur as follows:—

(1) That you on 13.12.63 at Pudu Police Station, in the District of Kuala Lumpur, in the State of Selangor, being Police supervisee No. 3521, did fail to comply with the provision of section 296(ii) of the Criminal Procedure Code, to wit, by failing to report yourself on 13.12.63 at Pudu Police Station, within the Kuala Lumpur Police District and that you have thereby committed an offence punishable under section 297 of the Criminal Procedure Code.

(2) That you on 18.12.63 at about 1.30 a.m. at Pudu Railway Station, in the District of Kuala Lumpur, in the State of Selangor, were found trespassing upon the railway property, to wit, by sleeping in the said railway station, and that you have thereby committed an offence under section 106 of the Railway Ordinance.

He pleaded guilty to both charges whereupon he was convicted and sentenced to undergo one year's imprisonment on the first charge and fined \$10 in default one week's imprisonment on the second charge, the sentences to run concurrently.

In making the order for the sentences to run concurrently the learned Magistrate overlooked the provisions of section 102 of the Courts Ordinance, 1948. This section provides that "when a person is convicted at one trial of any two or more distinct offences the court may sentence him for such offences to the several punishments prescribed therefor which such court is competent to inflict, such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the court may direct, or to run concurrently if the court shall so direct". There is, however, an important proviso to that provision, namely, proviso (c), which says that "when imprisonment is directed in default of payment of a fine or of costs or compensation ordered under the authority of any law for the time being

A in force, such imprisonment shall be consecutive to any other term or terms of imprisonment so directed and to any sentence of imprisonment otherwise imposed."

The effect of section 102 of the Courts Ordinance is that where a person upon conviction at one trial of two or more district offences is sentenced to a term of imprisonment for each offence, the court has discretion to order the sentences to run concurrently or consecutively. But if the sentence for any one offence is a fine, then the sentence in default of payment of such fine must be consecutive to any other term or terms of imprisonment.

In the present case if the sentence imposed for each offence was a term of imprisonment, the order for the sentences to run concurrently would have been a perfectly valid and legal order. But as one of the sentences was a fine the order for the sentence in default of payment of such fine to run concurrently was contrary to the provisions of section 102 of the Courts Ordinance. The order for the sentences to run concurrently is therefore set aside and I make an order that the sentences do run consecutively.

Order accordingly.

LIM TAI TIN v. SERVICES LTD.

[F.C. (Thomson L.P., Tan Ah Tah F.J. and Chua J.)
September 14, 1964]

[Singapore — Federal Court Civil Appeal No. 60 of 1963]

Landlord and Tenant — Standard rent — Premises "let separately" — Control of Rent Ordinance (Cap. 242), ss. 2, 3, 22 and 23 — Interpretation of Ordinance.

In this case the respondents claimed possession of premises No. 937 Serangoon Road which was let to the appellant. The premises together with Nos. 933 and 939 Serangoon Road were originally let together at the rent of \$110 a month. Subsequently the then tenant agreed to give up possession of the lands and houses occupied by him and became tenant of 937 Serangoon Road only at the rent of \$175 a month. The appellant subsequently took over the tenancy of 937 Serangoon Road. The respondents brought an action to claim possession of No. 937 Serangoon Road, as rent was in arrears and judgment was given for them. The appellant appealed. It was argued on appeal that the standard rent of No. 937 Serangoon Road was not \$175 but some proportion of \$110 which was the rent paid for the whole of the premises including No. 937 Serangoon Road.

Held: No. 937 Serangoon Road was first let separately at the agreed rent of \$175 a month and that was accordingly the standard rent for the purposes of the Ordinance; and the appeal must therefore be dismissed.

Per Thomson L.P.: "The whole Ordinance deals with 'premises', an expression which it defines, and it regulates the rent of premises. Clearly it cannot apply to any subject of a tenancy agreement that does not fall within its own definition of premises. And by that definition 'premises' means (not 'includes') a building and so forth and any part of such building 'let or sublet separately'.